# CITY COUNCIL MINUTES
## February 28, 2011
## REGULAR SESSION

The Regular Session of the Auburn City Council was held in the Council Chambers, City Hall, 1225 Lincoln Way, Auburn, California on Monday, February 28, 2011 at 6:00 p.m. with Mayor Kirby presiding and Deputy City Clerk Amy M. Lind recording the minutes.

**CALL TO ORDER**

**ROLL CALL:**

**Council Members Present:** Kevin Hanley, J. M. Holmes, Bridget Powers, Bill Kirby

**Council Members Absent:** Keith Nesbitt

**Staff Members Present:** City Manager Robert Richardson, City Attorney Michael Colantuono, Community Development Director Will Wong, Senior Planner Reg Murray, Fire Chief Mark D'Ambrogi, Public Works Director Bernie Schroeder, Transit Analyst Megan Siren, Administrative Services Director Andy Heath, Police Chief Valerie Harris and Police Captain John Ruffcorn.

By **MOTION** adjourn to a Closed Session under Government Code Section 54957:6
**MOTION: Hanley/ Holmes/ Unanimously approved by voice**

(1) **CONFERENCE WITH LABOR NEGOTIATORS**
G.C. 54957.6

Agency Designated Representatives: Robert Richardson, Patrick Clark

Employee Group: All Bargaining Units

(2) **CONFERENCE WITH LEGAL COUNSEL**

The City Council/Agency finds, based on advice from legal counsel, that discussion in open session will prejudice the position of the local agency in the litigation.

Existing Litigation:
G.C. 54956.9(a)

Name of Case: Auburn Police Officers Association v. City of Auburn, Placer County Superior Court Case No. No. SCV 26856

Council Member Nesbitt joined the closed session at 5:37.

**REPORT OUT OF CLOSED SESSION**

The City Attorney announced that the Council unanimously decided to appeal the APOA v. City decision.

**PLEDGE OF ALLEGIANCE**

**MAYOR'S COMMENDATIONS / PROCLAMATIONS / ACKNOWLEDGEMENTS / ANNOUNCEMENTS**

Mayor Kirby presented a commendation for Ralph Roper.

**AGENDA APPROVAL**

The agenda was approved as presented by consensus of the Council.

**CONSENT CALENDAR**

1. **Minutes**

   By **MOTION** approve City Council Minutes of 1/13/2011 and 2/14/2011.

2. **CalPERS Contract Amendment Ordinance – Section 21362 (2% @ 50 Full Formula) for Local Safety Members – Second Reading**

   By **ORDINANCE 11-01**, approve an amendment to the contract between the City of Auburn and CalPERS, providing Public Employees' Retirement Law Section 20475 (Different Level of Benefits) for local safety members whereby Section 21362 (2% @ 50 Full Formula) is applicable to local safety members entering membership for the first time in the safety classification after the effective date of the amendment to the contract.

3. **WWTP Groundwater Monitoring – Professional Service Agreement BSK Associates**

   By **RESOLUTION 11-26**, authorize the Director of Public Works to execute a contract with BSK Associates to perform groundwater monitoring at the Wastewater Treatment Plant.

4. **Fire Dispatch Agreement with Cal Fire**

   By **RESOLUTION 11-27**, approve and authorize the Fire Chief to execute the dispatch agreement with Cal Fire, California Department of Forestry & Fire Protection, for the period of July 1, 2010 through June 30, 2013.

********** End of Consent Calendar **********

By **MOTION**, approve the consent calendar.
**MOTION: Holmes / Nesbitt / Approved 5:0**

5. **Public Comment**

Council Member Holmes said in 2009, he and the Fire Chief began the process of getting a piece of the Twin Towers from the September 11th, 2001 terrorist attack in New York City. He said it arrived and is in possession of the Fire Department. He said he hopes to create a memorial to honor the people who lost their lives that day.

Vicky Liddicoat, resident of Georgetown, introduced herself to the Council and reviewed her proposal for landscape maintenance in the Central Square area.

Megan Siren, Public Works Department, informed the Council that the Police Department and the Public Works Department are working together to hold another pharmaceutical take-back event to be held April 30, 2011 from 10am to 2pm at City Hall parking lot.

Mayor Kirby echoed the importance of the pharmaceutical take-back event, keeping pharmaceuticals out of the sewage system.

## PUBLIC HEARING

6. **Amendment of Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries**

By **MOTION**, continue this public hearing to the March 14, 2011 regular City Council Meeting to consider a zoning code amendment of Section 159.019 of the Auburn Municipal Code for Medical Marijuana Dispensaries.
**MOTION: Nesbitt / Hanley / Approved 5:0**

7. **Baltimore Ravine Specific Plan and Study Areas Project**

Mayor Kirby clarified that the intention of public comment on this item is for the narrow focus of the access issue that was sent back to the Planning Commission to discuss at the January 13th meeting. He said public comment on the project as a whole was received at the January 13th meeting.

Reg Murray, Senior Planner presented this item. He reviewed: (1) prior action of the Council, (2) the Placer County consultation, (3) access alignments, (4) Planning Commission review, (5) Alternative 4, Pacific Street Extension, (6) Alternative 5, South of Pacific Street, (7) Alternative

4 and 5 common design elements, (8) Herdal Drive elements, (9) emergency response times, (10) other considerations regarding Alternatives 4 and 5, (11) Planning Commission recommendations (using Herdal Drive as access to the BRSP), (12) access phasing, (13) subsequent approvals, and (14) recommended actions.

City Attorney Michael Colantuono summarized his advice given to the Planning Commission during the January 15th meeting regarding access to the project (verbatim in the 1/15/2011 Planning Commission minutes).

Council Member Nesbitt asked the Fire Chief how emergency response times were determined.

Fire Chief Mark D'Ambrogi said he used a distance, speed and rate calculation.

Council Member Nesbitt asked staff about: (1) additional right-of-way needed for roads when in the 6-75 units phase, (2) the approval of Plan Area 2, (3) the application possibly being incomplete, due to subsequent approvals needed from UP and CPUC.

Reg Murray said the easements are already in place and no additional land is needed to develop the roads. He said only the concept for Plan Area 2 is up for approval tonight. He said the specifics for Plan Area 2 will be coming back to the City at some later point in time. He also said project approval is necessary before the other approvals and applications can be considered. He said initial reviews have been completed based on the concept plan.

Council Member Holmes asked about: (1) other agency approvals that will be necessary in the future, (2) the process to move forward in regards to access points, (3) the access needed for large construction equipment, (4) on / off ramp from I-80, (5) mitigation for current residents on Herdal Drive, and (6) study areas rezoning.

Reg Murray said other agency approvals or administrative approvals were not listed on the "subsequent approval list" because they are administrative functions what will occur at the staff level. He said the intent is to use Herdal Drive for access during the first 1-5 units (model homes). He said before the 6th home is built, the developer must have in place secondary means of access. He said to go beyond 76 units, the developer will need to provide the full Herdal Warner connector. He said there is also emergency access off of Perry Ranch Road. He said the initial construction access will be the Herdal extension. He said there has been no conversation with Cal Trans about access to I-80. He said they did talk to the County about improvements to the I-80 / Newcastle Road

interchange. He said in regards to mitigation measures on Herdal, the travel lanes have been grade separated, which will help with noise. He said in addition there will be sound walls for the existing homes and the road surface will be rubberized to help diminish traffic noise. He said in regards to the study areas, with the approval of general land use plan, those areas would be taken out of the Urban Reserve planning area with the possibility to subdivide their properties at 2-acre parcel minimums.

Council Member Hanley asked about: (1) emergency response time and policy, (2) Newcastle interchange mitigation agreement, and (3) financing for street maintenance within the project.

Reg Murray said there is no policy in place to reject a project due to anticipated emergency response time. He said in regards to the interchange agreement with the County, it would be a Council decision to be made later. He said it would only be paid by new development, not existing residents. He said, in regards to the future street maintenance, the fiscal analysis included this and identified a $38,000 annual shortfall, so the Development Agreement includes a provision to fund this for the maintenance of the city streets, among other city services.

City Attorney Michael Colantuono explained that the fiscal impact study estimated the taxes that would come in from the development. He said it then estimated what the cost to serve the development would be, and identified the difference between the two as $38,000 annually. A requirement of the Development Agreement is to generate this money to provide all services to the development.

Council Member Powers asked staff about grade and safety on access Alternatives 4 and 5.

Reg Murray compared the grade for the access alternatives to other grades in the community.

Police Captain John Ruffcorn said the Police Chief's recommendation for access to the project is Herdal Drive. He said this took into account criminal activity associated with access to the railroad tracks.

Fire Chief Mark D'Ambrogi said any access with narrow, steep streets is a concern due to the heavy fire engines, resulting in slow response times.

Mayor Kirby asked staff about approval from the railroad for second access bridge and the proposed discussion with the County about Indian Hill Road.

Michael Colantuono said the railroad must cooperate reasonably with the community and the surrounding landowners. He said they can refuse to cooperate if the access being sought is unnecessary or the benefits of the access are outweighed by the costs. He said because the traffic study suggests that a Pacific access in addition to Herdal would attract as few as 7-10% of the vehicle trips out of the development, they could make the case that they don't need to create two crossings, and that decision might be difficult for the developer and City to challenge.

Reg Murray said there was not a discussion with the County about Indian Hill Road, because "that was not the direction of the Council."

Adrienne Graham, planning consultant for the City, said the recommendation as she understood it was to talk to the County regarding the Newcastle / I-80 Interchange. She said the Draft EIR did not identify an impact of the project with respect to Indian Hill Road.

Will Wong, Community Development Director, said because Indian Hill Road is not identified in the CEQA process and traffic study, this issue cannot be addressed with this project. He said if the Council wants to talk about the issue on a separate, future agenda and direct staff to talk to Placer County, that can be done.

Council Member Hanley read part of the motion from the January 13, 2011 meeting: "... task staff and the applicant with engaging with the County regarding an agreement on paying for Indian Hill Road / Newcastle Road intersection improvements in the future."

Mayor Kirby said he would like to see an item regarding Indian Hill Road on a future agenda even though it is not identified as related to this project.

Mayor Kirby clarified the $38,000 is annual and is not based on how many houses are currently built. He asked about the fund and how it would be handled in the future. He asked why safety of city personnel was listed as a concern with access Alternatives 4 and 5.

Fire Chief Mark D'Ambrogi said steep grades could be dangerous during certain weather conditions. He also said when emergency personnel work on a steep grade, there is danger to both the fire equipment and personnel.

Police Captain John Ruffcorn concurred that steep grades and slopes are a security concern for his police officers.

Mayor Kirby asked for a time estimate of infrastructure and the first 5 units built out.

Stephen Des Jardins, developer, said there will be about one year of design, followed by all appropriate approvals, and one more year to build. He said by 2013-2014, he would expect to have his first building permit.

Mayor Kirby asked about subsequent approval for Phase 2. He asked if these guidelines could be changed.

City Attorney Michael Colantuono said the developer has little interest in Plan Area 2 at this point. He said the reason the study was completed for Plan Area 1, Plan area 2 and the 4 study areas because it meets the City's planning objectives. He said the environmental review of this document must look at the whole context of the development and the whole area of the Urban Reserve.

Council Member Nesbitt asked about the $38,000 deficit. He asked if there would be inflation included. He asked if it includes capital replacement cost of the bridges.

***Council recessed for 5 minutes***

Adrienne Graham, Planning Consultant for the City, said the fiscal study is based on operating expenses related to the general fund; capital expenditures, such as those paid for by the gas tax, are not included in the fiscal study.

Reg Murray said in the development agreement there is a section (6.14.01) that talks about the deficit and sets in place the ability to address the issues Councilmember Nesbitt raised. He said there is a provision at the applicant's request and expense a reevaluation of the fiscal analysis could be completed, and staff recommends that the contract be amended to read that at either party's request (the City or the Applicant) could request a reevaluation.

Public Comment in opposition of Herdal Drive access:

Gina Wiskas, 10930 Oak View Terrace, Auburn. She spoke about criminal activity from Herdal Drive, emergency access with Herdal blocked, traffic volume, and construction equipment and traffic on Herdal.

Elinor Petusky, 835 Hoyer Lane, Auburn. She spoke about Indian Hill Road dangers, safe infrastructure, and construction traffic.

Mark Smith, 100 Pine Crest Avenue, Auburn. He spoke about Union Pacific Railroad approval and a traffic study completed using the "model approach."

Bart Ruud, 843 Sierra View Circle, Auburn. He spoke about Indian Hill Road and Hoyer mitigation and permits for railroad crossings.

Melanie Barton, Placer County Museums Administrator. She spoke about Bloomer Cut from a historic perspective.

Margie Koltun, 11117 Oak View Terrace, Auburn. She spoke about the Planning Commission meeting in which only 2 commissioners were present, and how the information was formulated.

Ann Craig, 11025 Oak View Terrace, Auburn. She spoke of the original intention of the project to be much smaller, the number of units, high density housing, and traffic. She recommended amendments to the development agreement including prior to the first 5 units being built, the full access to Herdal-Warner Road be put into place.

Richard Sandborne, resident of Auburn. He spoke of vacant commercial buildings and homes within Auburn, recreation property, and mitigation fees.

Jack Krier, 1100 Oak View Terrace, Auburn. He spoke of gridlock on Herdal and the quality of life in Auburn.

Antoinette Fabela, 395 Huntley Ave., Auburn. She spoke of traffic, Indian Hill Road, cumulative traffic impact from approved developments not yet built in the area, traffic by the school in the area, and low-income and affordable housing.

Public Comment in favor of Herdal Drive access:

Leslie Sipe, 396 Baltimore Road, Auburn. She spoke about the effects of approval on her property which is in the Urban Reserve.

Stephen Des Jardins, developer for BRSP, clarified that there are 3 access points with the first 76 units. He spoke of fees that the development will be paying, legal access, the fiscal analysis, temporary bridges, interchange off I-80, and the history of Herdal Drive.

Council Member Hanley asked Stephen Des Jardins about whether he would use legal or non legal means if the Council provided an access requirement other then Herdal.

Stephen Des Jardins said "we would be willing to use Herdal, it is our property right."

Skip Outman, resident of Auburn. He spoke about legal access existing since 1965 and the history of past approvals and actions by the City regarding this area.

Kim Dahlin, 590 Rogers Lane, Auburn. She spoke of the effects of approval on her property, which is in the Urban Reserve. She also spoke of wildfire danger without the Herdal access and existing criminal activity on the property.

Terry Davis, Sierra Club and 235 Brook Road, Auburn. He spoke about eminent domain, mitigation measures for Herdal neighborhood, and public safety.

Ed Pandolfino, Conservation Chair for the Sierra Foothills Audubon Society. He spoke of the effects of the alternative access options, which have a more significant impact on the natural habitat on the site.

Kristy Steen, resident of Roseville, daughter of Leslie Sipe, property owner at 396 Baltimore Road. She said her family supports the project because it releases the property from the Urban Reserve. She spoke in opposition to using eminent domain for an alternative access.

Public Comment closed.

Council Member Hanley said he does not want to "sell Auburn short." He said he would like to support a Baltimore Ravine Specific Project that enhances the community. He said "if we mess up tonight, we might not be able to clean up certain aspects later." He said the traffic and access issues are putting unnecessary and gratuitous burdens on the Herdal neighbors. He said the current plan before the Council falls short and suggested: (1) to mitigate the increased traffic on Herdal, eliminate the proposed Urban High Density designation (2) eliminate the Commercial designation, (3) Herdal - Warner connection be completed prior to pulling the first building permit, (4) consider Alternative # 3 in the EIR (the reduced density proposal), (5) enter real and detailed talks with the County regarding Indian Hill Road and the Newcastle Interchange, (6) come back with a vision that connects walkers and bicyclists inside and outside of the proposed development, (7) eliminate low-income housing from the plan.

Council Member Powers said this area has been designated for development for over 26 years. She said the Herdal Drive is a deeded access for that property. She said this developer has come up with a good

project and has put forth effort to communicate with the community. She said Indian Hill Road is a true danger and would like to see action taken even though it was not identified as related to this project. She said she supports this project.

Council Member Holmes said the decision tonight by the Council will be "the most significant decision that this Council will have made in many years and many years to come." He said it has the potential of increasing the population by 10-15% when it is fully built out. He said he has spoke with many people for and against the project. He said he was concerned with the decision by the Planning Commission to move ahead at the last meeting without a quorum. He said he is encouraged to see the Study Areas under this plan allowing the property owners to rezone out of the Urban Reserve.

Council Member Nesbitt said his main concern with this project was "walkability" and the access points. He said after studying alternative accesses and finding out the Herdal access will be built anyway, he is reluctantly abandoning the alternative access idea. He said he would like to see walking paths included to get into Old Town and Downtown areas. He said he would like to see the City and County address the issues on Indian Hill Road and make it safer. He said it is time to release the owners in the study areas. He said this is one of the only possible developments that would make a significant financial contribution to our parks because there are few areas left to develop. He said, knowing the access will be coming through Herdal, he would like to see that area be created with separated sidewalks and street trees. He said he has seen this developer as more sensitive and more concerned to a lot of the issues of the land then developers in the past. He said as far as Herdal access goes, he can only address legally what the access is and what the rights of the developer are. He said with the separated sidewalk revision to Herdal Drive, he will reluctantly support this project.

Mayor Kirby addressed comments made by the public and by staff. He said in regards to the scenario with the access road being blocked, the scenario would be the same no matter which road was the access road. He said Indian Hill is a very serious problem. He said this project might trigger looking at a solution for Indian Hill Road, but it's not the purview of this project to fix a problem that has been there for a long time. He said it is the purview to address it and make it better. He said he believes in high density in cities, he does not believe in urban sprawl. He said high density belongs within the city limits. He said he agrees that Bloomer Cut is historic, but it would only take out a small section. He addressed the comment about the complaint about the Planning Commission meeting with two commissioners present. He said the complaint should have been brought up at that meeting. He addressed the rumor that the original plan

was to have fewer homes in the project. He said he doesn't view the developer telling us he will use Herdal as access either way, as a threat, he said he views it is as a fact. He said he does not want to give up any park land, he would rather expand it. He said he has some issues with the traffic study. He said it will need to be continually looked it. He said the developer may have funded what have been done to this point, but he said he is confident that city staff has been able to maintain their separation from the developer. He said he is concerned about access from bicyclist and walkers and would like to see an access through the project. He said this area is geographically an island. He said he agrees with having the connection through to Warner completed before the first building permit. He said he is in favor of this project because the developer has presented a project that is excellent for the site. He said it is the best project for the area. He said it releases the property owners in the study areas from the Urban Reserve.

The Council discussed the idea of having the Warner access connection fully developed before the first building permit.

Stephen Des Jardins said there will be no occupancy permit until the 6th unit. He said there will not be much activity during the model home phase.

Council Member Nesbitt moved to amend item C to include the separated sidewalk and street tree plan.
**MOTION: Nesbitt / Holmes / Approved 5:0**

Council Member Nesbitt moved to amend the Development Agreement to read that Rogers Lane access must be open before the first building permit is pulled and section 16.14.01(c) of the Development Agreement is written to allow either party to trigger a review of the fiscal study.
**MOTION: Nesbitt/ Powers / Approved 5:0**

A. By **RESOLUTION 11-28**, take the following actions regarding the environmental document prepared for the Baltimore Ravine Specific Plan and Study Area Project:

a. Certify the Environmental Impact Report prepared for the Baltimore Ravine Specific Plan and Study Area project;
b. Adopt the Findings of Fact and Statement of Overriding Considerations; and
c. Adopt the Mitigation Monitoring Program.

B. By **RESOLUTION 11-29**, approve the General Plan Amendment associated with the Baltimore Ravine Specific Plan and Study Area Project (File GPA 07-3).

C. By **RESOLUTION 11-30**, approve the Baltimore Ravine Specific Plan and Study Area Project amended as follows (figure 510 on page 513) of the BRSP shall be replaced with revised Herdal Drive cross section and proposed split roadway Herdal Drive alternative with separated sidewalk dated December 23, 2010. (File SPA 07-1).

D. By **MOTION**, introduce and hold a first reading, by title only, of an ordinance approving the rezone for Plan Area 1 of the BRSP as well as Study Areas 1-4 of the Baltimore Ravine Specific Plan and Study Areas Project.

E. By **MOTION**, introduce and hold a first reading, by title only, of an ordinance approving an amended Development Agreement by and between the City of Auburn and the Baltimore Ravine Investors, LLC.

F. By **RESOLUTION 11-31**, approve the Large Lot Tentative Map for Plan Area 1 of the Baltimore Ravine Specific Plan (File SUB 07-2) as presented.

G. By **RESOLUTION 11-32**, adopt the Statement of Reasons to Permit Development in a Mineral Resource Zone.

By **MOTION**, approve A-G on the Baltimore Ravine Specific Plan and Study Areas Project.
**MOTION: Nesbitt / Powers / Approved 4:1 (Hanley voted "no")**

Mayor Kirby emphasized he would like brought back an item regarding a discussion with Placer County regarding Auburn Folsom and further mitigation in the Auburn Folsom area.

## REPORTS

8. **City Council Committee Reports**

Council Member Powers reported that the Airport Business Park Association held their 2nd association meeting and is off to a great start. She also said the Placer County Economic Development Board is holding a Manufacturers Association Meeting in the Sunset Industrial Park on March 10th at the Ace Hardware.

Mayor Kirby reported the Chamber is doing a walk-about for businesses Wednesday and a Power Breakfast on Friday to discuss businesses in the Auburn community. He also said Auburn Movie Night this year will include 9 movie showings: 3 in Old Town, 3 in Central Square, and 3 in Downtown.

## ADJOURNMENT

Mayor Kirby adjourned this meeting, without objection, at 9:35 p.m. in memory of Jim Carlisle and all the firefighters who serve our community.

William W. Kirby, M.D., Mayor

Amy M. Lind, Deputy City Clerk